

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Wayne R. Andersen	Sitting Judge if Other than Assigned Judge	Edward A. Bobrick
CASE NUMBER	00 C 5769	DATE	9/6/2001
CASE TITLE	Wagner vs. Medline		


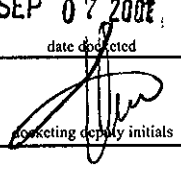
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Report and recommendation regarding defendant's fee petition is hereby submitted to Judge Andersen. This Court recommends that defendant's fee petition in the amount of \$3,457.40 be granted, and that the complaint be dismissed, with prejudice, by reason of plaintiff's failure to prosecute her case and for her failure to comply with the orders of this court. All matters relating to the referral of this action having been resolved, the case is returned to the assigned judge. <div style="text-align: right;"><i>Edward A. Bobrick</i></div>
(11)	<input checked="" type="checkbox"/>	[For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input checked="" type="checkbox"/> Copy to judge/magistrate judge.	TH <input checked="" type="checkbox"/>	courtroom deputy's initials	<div style="text-align: center;">  CD-7 FILED FOR DOCKETING 01 SEP -6 PM 4:50 </div>	1	<div style="border: 1px solid black; padding: 10px; text-align: center;"> Document Number 14 </div>
				number of notices	
				SEP 07 2001 date docketed	
				 docketing deputy initials	
				9/6/2001 date mailed notice	
				TH6	
				mailing deputy initials	

ORDER

REPORT AND RECOMMENDATION

I. BACKGROUND

This matter is before the court on defendant's fee petition. It is recommended that defendant's fee petition be approved and that this case be dismissed by reason of plaintiff's failure to prosecute.

On August 13, 2001, this matter was set for status with notice given by the court to plaintiff. Plaintiff did not appear at the August 13, 2001 hearing. On that date, this court ordered that "Plaintiff file a response to the fee petition by August 23, 2001. Failure to respond to the fee petition will result in the approval of the full amount of \$3,413.00. Plaintiff is directed to be present on September 4, 2001 at 10:00 a.m. in courtroom 1300; failure to do so will result in this court recommending that the case be dismissed for lack of prosecution." The court's order was mailed to plaintiff.

On September 4, 2001, the case was called for status; plaintiff again failed to appear as ordered. Defendant appeared at this status hearing and represented that no response was made to the fee petition, and the court file reflects this fact.

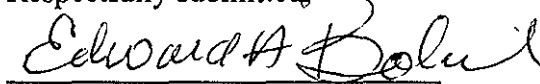
II. DISCUSSION

The court possesses inherent authority to dismiss a case *sua sponte* for a plaintiff's failure to prosecute. *Dickerson v. Board of Educ. Ford Heights, Ill.*, 32 F.3d, 1114, 1116 (7th Cir. 1994). The court may infer a lack of prosecution on various factors, including the failure to appear at scheduled hearings. *GCIU Employer Retirement Fund -v- Chicago Tribune*, 8 Fed.3d 1195, 1199, (7th Cir. 1993). The plaintiff has not appeared at scheduled status hearings as she had been ordered. Additionally, plaintiff has not responded to defendant's fee petition.

III. CONCLUSION

For the foregoing reasons, it is hereby recommended that defendant's fee petition in the amount of \$3,457.40 be GRANTED, and that the complaint be dismissed, with prejudice, by reason of failure of plaintiff to prosecute her case and for her failure to comply with the orders of this court.

Respectfully submitted,



EDWARD A. BOBRICK,
U.S. Magistrate Judge

Any objections to this Report and Recommendation must be filed with the Clerk of the Court within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140 (1985); *The Provident Bank v. Manor Steel Corp.*, 882 F.2d 258 (7th Cir. 1989).